

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

IN RE: SINUS BUSTER PRODUCTS
CONSUMER LITIGATION

Civil Action No. 12-CV-2429 (ADS)(AKT)

**SUPPLEMENTAL DECLARATION OF ANTONIO VOZZOLO IN SUPPORT OF
PLAINTIFFS' MOTIONS FOR AN AWARD OF ATTORNEYS' FEES, COSTS AND
EXPENSES**

I, Antonio Vozzolo, declare as follows:

1. I am an attorney at law licensed to practice in the State of New York. I am a member of the bar of this Court, a partner at Faruqi & Faruqi, LLP, and one of the Co-Lead Settlement Class Counsel appointed by this Court in its February 4, 2014 Revised Order Preliminarily Certifying Settlement Class, Granting Preliminary Approval of Settlement, and Approving Class Notice, ECF No. 95.
2. On May 27, 2014, Plaintiffs filed motions for Final Approval of Class Action Settlement and for an Award of Attorneys' Fees, Costs and Expenses, and Incentive Fee Awards to Proposed Class Representatives. *See* ECF Nos. 96-100.
3. On June 27, 2014 at 9:00 a.m., the parties attended a Fairness Hearing before Your Honor.
4. Pursuant to Your Honor's directives at oral argument, I submit this supplemental declaration in further support of Plaintiffs' motion for an award of attorneys' fees, costs, and expenses.

5. Settlement Class Counsel seek a combined fee and expenses amount of \$250,000, which will be paid in addition to (and not out of) the relief made available to the Class.

6. After reimbursement of \$61,371.99 in reasonable litigation costs and expenses, Settlement Class Counsel's attorneys' fee request amounts to \$188,628.01. *See* Memorandum of Law in Support of Plaintiffs' Motion for an Award of Attorneys' Fees, Costs and Expenses, and Incentive Fee Awards to Proposed Class Representatives (hereinafter "Memorandum of Law in Support of Motion for Attorneys' Fees"), ECF No. 99 at 15-16.

7. Settlement Class Counsel, however incurred a total lodestar of \$682,599.75, based on number of hours billed multiplied by customary hourly rates. *See* Declaration of Antonio Vozzolo in Support of Plaintiffs' Motions for Final Approval of Class Action Settlement; and for an Award of Attorneys' Fees, Costs and Expenses, and Incentive Fee Awards to Proposed Class Representatives, ECF No. 100. The hourly rates listed in the declarations of Antonio Vozzolo and Joseph I. Marchese, submitted in support of Plaintiffs' motion for an award of attorneys' fees (ECF Nos. 100-2 and 98-1), are based upon customary hourly rates that have been approved by courts throughout the country. *See, e.g., Rossi v. P&G*, 2013 U.S. Dist. LEXIS 143180, at *29 (D.N.J. Oct. 3, 2013) ("the Court finds that the lodestar rates [of Faruqi & Faruqi, LLP and Bursor & Fisher, P.A.] are based on a reasonable hourly billing rate for such services given the geographical area, the nature of the services provided and the experience of the lawyer.").

8. The hourly rates listed in the declarations of Antonio Vozzolo and Joseph I. Marchese submitted in support of Plaintiffs' motion for an award of attorneys' fees, however, were submitted to this Court for illustrative purposes only.

9. Settlement Class Counsel are not seeking a lodestar enhancement, nor do they even request awarding their bare lodestar as a fee.

10. Rather, the fee request of \$188,628.01 amounts to a fraction or 28% of Settlement Class Counsel's total lodestar.

11. Under these circumstance, with Settlement Class Counsel incurring over 1,415 hours (*see* Memorandum of Law in Support of Motion for Attorneys' Fees at 17), the effective hourly rate (based upon the fee that was agreed between the parties), amounts to a blended rate of approximately \$133 per hour.

12. In other words, to calculate the hourly rate Settlement Class Counsel is *actually* being compensated, one could simply divide the requested fee (\$188,628.01) by the total hours worked (1,415 hours). Based on this calculation, Settlement Class Counsel is only requesting compensation in the amount of \$133.31 per hour.

13. Moreover, if the hours incurred by paralegals were excluded in order to determine compensation for attorney time only, one could simply divide the requested fee (\$188,628.01) by the total number of attorney hours worked (1,243.1 hours). Based on this calculation, Settlement Class Counsel is only requesting compensation in the amount of \$151.74 per hour for an attorney.

14. Thus, Settlement Class Counsel respectfully submit that the fee request is reasonable in light of the effective hourly rates discussed above and the recovery obtained on behalf of the Class.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on the 27th of June, 2014, at New York, NY.

/s/ Antonio Vozzolo

Antonio Vozzolo